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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010- 354**

13 **VIRGINIA ILA GARRETT**
17558 Hiawatha Street
Granada Hills, CA 91344

A C C U S A T I O N

14 **Registered Nurse License No. 543848**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about June 4, 1998, the Board of Registered Nursing (Board) issued Registered
24 Nurse License No. 543848 to Virginia Ila Garrett (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2010, unless renewed.

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1 7. Section 2761 states:

2 "The board may take disciplinary action against a certified or licensed nurse or deny an
3 application for a certificate or license for any of the following:

4 (a) Unprofessional conduct,

5 ...

6 (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violation of, or conspiring to violate any provision or term of this chapter or regulations adopted
8 pursuant to it.

9 (f) Conviction of a felony or of any offense substantially related to the qualifications,
10 functions, and duties of a registered nurse, in which event the record of the conviction shall be
11 conclusive evidence thereof." ...

12 8. Section 2762 states:

13 "In addition to other acts constituting unprofessional conduct within the meaning of this
14 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
15 following:

16 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
17 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
18 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
19 himself or herself, any other person, or the public or to the extent that such use impairs his or her
20 ability to conduct with safety to the public the practice authorized by his or her license.

21 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
22 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
23 or the possession of, or falsification of a record pertaining to, the substances described in
24 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
25 thereof."

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1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1444, states:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare. . ."

7 **COST RECOVERY**

8 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Criminal Convictions)**

14 11. Respondent is subject to disciplinary pursuant to Code sections 490 and 2761,
15 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
16 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
17 of a licensed registered nurse, as follows:

18 a. On or about August 20, 2008, after pleading nolo contendere, Respondent was
19 convicted of one misdemeanor count of violating Vehicle Code section 23103 [wet/reckless
20 driving], in the criminal proceeding entitled *The People of the State of California v. Virginia*
21 *Garrett* (Super. Ct. Los Angeles County, 2008, No. 8VY01984). Respondent was court ordered
22 to serve 10 days in jail, pay fines totaling \$1364.00, complete a 12-hour alcohol program and
23 placed on probation for a period of 36 months with terms and conditions. The circumstances
24 surrounding the conviction are that on or about April 9, 2008, the California Highway Patrol
25 arrested Respondent for driving under the influence of an alcoholic beverage and that her
26 continued operation of a motor vehicle would be unsafe.

27 b. On or about April 1, 2004, after pleading nolo contendere, Respondent was convicted of
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one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having blood alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of California v. Virginia I. Garrett* (Super. Ct. Los Angeles County, 2004, No. 4VN00660). Respondent was court ordered to serve 13 days in jail, pay fines totaling \$1366.00, complete a 3-month First-Offender Alcohol Counseling Program and placed on probation for a period of 36 months with terms and conditions.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

12. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), in conjunction with California Code of Regulations, section 1444, for unprofessional conduct in connection with alcohol use and criminal convictions. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

13. Respondent is subject to disciplinary action pursuant to Code section 2762, subdivision (b), in that on or about April 8, 2008 and April 1, 2004, Respondent used alcohol beverages to an extent or in a manner dangerous to herself, and others. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Conviction Involving Alcohol)

14. Respondent is subject to disciplinary action pursuant to Code section 2762, subdivision (c), in that on or about April 1, 2004, Respondent was convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraph (b), as though set forth fully.

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PRAVER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 543848, issued to Respondent;

2. Ordering Virginia Ila Garrett to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

1/29/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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